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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/697,269	10/26/2000	Christopher W. B. Goode	DIVA/002-CP2DV1	7527

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EXAMINER
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NALEVANKO, CHRISTOPHER R

ART UNIT	PAPER NUMBER
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2611

DATE MAILED: 05/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/697,269

Applicant(s)

B. GOODE ET AL

Examiner

Christopher R Nalevanko

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Priority*

The Applicant has not been granted the priority date of the Continuation in Part to application no. 08/984,710 (Patent No. 6,253,375) because of additional subject matter in the present application, specifically the "in the case of a previously terminated session with the set-top terminal existing, performing the steps of restoring the terminated session and providing the requested title to the set-top terminal if the use time associated with the title has not expired" and stop and pause commands. The effective date of the present application is the date of the Divisional Application No. 09/322,814 (Patent No. 6,166,730) 05/28/1999.

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

1. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pocock et al in further view of Swenson et al and Garfinkle.

Regarding Claim 1, Pocock shows an interactive information distribution system to provide requested information comprising receiving a title selection from a set-top terminal and, in the case of a first request, performing the steps of opening a session with the terminal and providing the requested title to the terminal (col. 9 lines 22-67, col. 10 lines 54-67, col. 11 lines 20-65). Pocock fails to show restoring a previously terminated session and providing the title to the user through the previously terminated session.

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Swesons shows, in the case of previously terminated session, restoring the terminated session and providing the requested title to the terminal (col. 4 lines 42-67, col. 5 lines 3-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Pocock with the ability to continue a terminated session so that a user could continue watching a video at his or her convenience.

Neither Pocock nor Swenson show a use time associated with the requested video. Garfinkle shows the use of a use time associated with a selected video as well as supplying the video if the use time has not expired (col. 2 lines 20-37, col. 3 lines 25-55). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Pocock and Swenson with the ability to associate a use time with the requested video so that the user could only watch the video for a predetermined amount of time before purchasing the video again, increasing the revenue from the on-demand system.

Regarding Claim 2, Garfinkle shows associating a view time (col. 2 lines 20-25, col. 3 lines 45-50).

Regarding Claim 3, Garfinkle shows not providing the title if the view time has expired (col. 4 lines 30-48).

Regarding Claim 4, it is inherent and understood that if the use time of a requested video expires, a user may open a new video session with a new use time.

Regarding Claim 5, it is inherent and understood in Garfinkle that if the view time has expired, a user may open a new video session with a new use and view time.

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Regarding Claim 6, Swenson shows beginning at a previous termination point (col. 5 lines 3-25).

Regarding Claim 7, Swenson shows the ability to begin the transmission at a title start point designated by the user (col. 5 lines 3-54).

Regarding Claim 8, Garfinkle shows that a set-top terminal can be associated with an account and that the use time defines the time within which the title maybe accessed (col. 2 lines 5-8, lines 20-25, col. 3 lines 45-50). Pocock, Swenson, and Garfinkle fail to specifically show incurring additional charges. Official Notice is taken that it is well known and expected in the art to charge a user more when a predetermined using time has expired. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Pocock, Swenson, and Garfinkle with the ability to charge for extra viewing time so that the distributor could create more revenue.

Regarding Claim 9, Garfinkle shows that a set-top terminal can be associated with an account and that the view time defines the amount of time the requested title maybe presented (col. 2 lines 5-8, lines 20-25, col. 3 lines 45-50). Pocock, Swenson, and Garfinkle fail to specifically show incurring additional charges. Official Notice is taken that it is well known and expected in the art to charge a user more when a predetermined viewing time has expired. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Pocock, Swenson, and Garfinkle with the ability to charge for extra viewing time so that the distributor could create more revenue.

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Regarding Claim 10, Garfinkle shows blocking, erasing, or terminating a title when the use time has been expired (col. 2 lines 20-37).

Regarding Claim 11, Pocock, Swenson, and Garfinkle fail to specifically state terminating an open session when the presentation is concluded. Official Notice is given that it is well known and expected in the art to terminate a session when a presentation has conclude. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Pocock, Swenson, and Garfinkle with the ability to terminate a finished session to free up available bandwidth in the communication system.

Regarding Claim 12, Swenson shows terminating a session after the title has requested to be halted (col. 5 lines 3-55).

Regarding Claim 13, Garfinkle shows blocking, erasing, or terminating a title when the view time has been expired (col. 2 lines 20-37).

Regarding Claim 14, Pocock, Swenson, and Garfinkle fail to specifically state terminating an open session when the presentation is concluded. Official Notice is given that it is well known and expected in the art to terminate a session when a presentation has conclude. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Pocock, Swenson, and Garfinkle with the ability to terminate a finished session to free up available bandwidth in the communication system.

Regarding Claim 15, Swenson shows terminating a session after the title has requested to be halted (col. 5 lines 3-55).

Regarding Claim 16, Swenson shows associating a time with the halted presentation (col. 5. lines 45-50). It is inherent that a time variable is incremented.

Regarding Claim 17, Swenson shows a stop and pause command (col. 5 lines 3-55).

Regarding Claim 18, Swenson shows associating a time with the halted presentation (col. 5. lines 45-50). It is inherent that a time variable is incremented.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Brodigan U.S. Patent No. 6,219,355 discloses a video and data communication system.

Billock et al U.S. Patent Application Publication No. 2002/0059581 discloses a video-on-demand service with an interactive interface for facilitating viewer selection of video programs.

Banker et al U.S. Patent No. 5,357,276 discloses a method of providing video on demand with VCR like functions.

Li et al U.S. Patent No. 6,543,053 discloses an interactive video-on-demand system.

Wolf et al U.S. Patent No. 5,461,415 discloses a look-ahead scheduling to support video-on-demand applications.

DeMoney U.S. Patent No. 6,065,050 discloses a system and method for indexing between trick play and normal play video streams in a video delivery system.

Wang et al U.S. Patent No. 5,928,327 discloses a system and process for delivering digital data on demand.

Lieberman U.S. Patent No. 5,070,400 discloses a pay-TV time purchase scheme.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Nalevanko whose telephone number is 703-305-8093. The examiner can normally be reached on M-F 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on 703-305-4380. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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